(Spl. - H.C.A.S. C.D., 78-e)

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF BOMBAY AT GOA
PANAJI – GOA
APPELLATE SIDE

MISC. CIVIL APPLICATION NO. 530 OF 2004
IN W.P. NO.435/2002.

Office Notes, Office Memoranda of Quorum appearances, Court's orders, or directions and Registrar's orders.	Court's or Judge's Orders.

Shri V.B. Nadkarni, Senior Advocate with Shri Y.V. Nadkarni, Advocate for the Applicant.

Smt. S.S. Naik with Smt. S.Podwal, Advocates for the Respondent No.1.

CORAM : B.H.MARLAPALLE &
N.A. BRITTO, JJ.

DATE : 22nd November, 2004.

P.C.

There is no dispute that the Applicant has deposited an amount of Rs.16,60,000/- with the Registry of this Court way back on 20.11.2002 and the said amount has been invested in Fixed Deposit. The stand of the Corporation is that an amount of Rs.11,00,000/- must be allowed to be withdrawn. The Corporation has also filed Misc. Civil Application No.603/2004 praying for

permission to withdraw this amount.

It is clear that the petitioner's claim for entitlement of 3% interest subsidy is subject matter of decision in Writ Petition No.435/2002.

In this application the petitioner has made a limited prayer for release of the hypothecated properties by closing the account in view of the fact that almost the entire amount covered by two demand notices has been deposited with the Registry of this Court and the said amount has been invested.

The amount having been deposited and subsequently directed to be invested is a guarantee which is sufficient to close the loan account of the applicant. In case it is held finally that the applicant was not entitled for the subsidised rate of interest, the claim of the respondent is duly

protected by the deposited amount which has been invested. Under these circumstances, it is not necessary that the Corporation should be allowed to withdraw Rs.11,00,000/- from the deposited amount, Aa a condition precedent for closing the petitioner's loan account. The interests of the Corporation are duly secured by the deposit.

We, therefore, allow this application in terms of prayer clause (A).

B. H. MARLAPALLE, J.

N. A. BRITTO, J.

sl.